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May 30, 2019

District Judge Joanna Seybert
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: 2:19-cv-00974-JS-GRB
Sibrian v. Cento Fine Foods, Inc.

Dear District Judge Seybert:

This office represents the plaintiff in the above action. On May 23, 2019, defendant served and filed a letter seeking a pre-motion conference pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6). ECF No. 8. In accordance with your Honor's Individual Motion Practices ("Individual Rules"), plaintiff is required to serve and file a letter response "[W]ithin seven (7) days of receiving the movant's letter." Section IV(G).

Your Honor's Individual Rules consider service of defendant's pre-motion letter "within the time requirements set forth in Rule 12 of the Federal Rules of Civil Procedure [shall constitute] timely service of a motion filed under Rule 12." Section IV(G).

Consistent with your Honor's Individual Rules and Fed. R. Civ. P. 15, plaintiff will "amend its pleading once as a matter of course" within 21 days "after service of a motion under Rule 12(b)." Fed. R. Civ. P. 15(a)(1)(B); *Martinez v. LVNV Funding, LLC*, No. 14-cv-00677, 2016 WL 5719718, at *3 (E.D.N.Y. Sept. 30, 2016); *M.E.S., Inc. v. Liberty Mut. Sur. Group.*, No. 10-cv-0798, 2014 WL 46622 (E.D.N.Y. Jan. 6, 2014), *2 (noting that a plaintiff's amendment as of right in response to defendant's pre-motion letter seeking dismissal "allow[s] for the more efficient use of the Court's time and resources because the Court need only meet with the Parties once...and the need for the motion may be obviated if the amended pleading deals with Defendants' concerns.").

Plaintiff will file the first amended complaint ("FAC") on or before Friday, June 14, 2019, 21 days after defendant's letter-motion was served. Fed. R. Civ. P. 6(a)(1)(A) (excluding "the day of the event that triggers the period"); Fed. R. Civ. P. 15(a)(1)(B). Thank you.

Respectfully submitted,

/s/ Spencer Sheehan
Spencer Sheehan

Certificate of Service

I certify that on May 30, 2019, I served the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email
<u>Defendant's Counsel</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan
Spencer Sheehan